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Congress of the United States

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May 15, 2009

The Honorable Henry Waxman
Chairman
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Waxman:

Your American Clean Energy and Security Act of 2009 may be the most far-reaching and important piece of legislation the Energy and Commerce Committee has considered during its 200-year history. If adopted, the mandates, restrictions, and costs in this bill promise to alter drastically the way Americans produce and use energy from now through the middle of the century. With a price tag in the trillions of dollars, this legislation will impact every person, every family, and every business. For these reasons, we believe it is imperative that we proceed with open, deliberate, and complete consideration of this legislation, and in a manner that respects the gravity and complexity of the task at hand.

In your March 27 letter to President Obama concerning climate legislation in the 111th Congress, you seemed to agree. You told the President that "hearings, markups, and regular order are the best way to forge the compromises that will unite members from all parts of the country. As we work to achieve this consensus, we hope Republican members of our committee and of the full House will join the process too, so that truly bipartisan answers can be developed."

However, your self-imposed Memorial Day deadline for reporting this bill necessarily requires that we short-circuit the logical legislative process that our democracy thrives on, and replace it with a frantic rush to judgment.

What is the hurry? If we wanted a bill sure to embarrass our committee, this is precisely the process we would adopt to create one. It began with secret negotiations, moved on to a decision to skip subcommittee consideration altogether, and now we face a scheduled markup.

We appreciate that today you provided us with a copy of your revised language in the form of an introduced bill—H.R. 2454—that is 284 pages longer than your original draft. However, since the House is not in session today and will not be voting until Monday evening, Members will not have had any meaningful chance to even look at your new language; much less try and understand it before you start the markup. Not that this would make any difference, as we understand that you will be offering a complete substitute amendment at the markup that we will not see until it is offered. Mr. Chairman, this is no way to write any public law, much less one that will transform the way every person in our country lives and works.


Americans expect all of us to read and understand all of the language of your bill, particularly including your plan to allocate emissions permits. No one doubts that the economic toll of this legislation is going to be tens of billions of dollars per year, and we believe that Americans deserve to understand how it will affect what they pay for electricity, gasoline, and other items of everyday life in our country.

Today we reiterate the request of you to hold a hearing—just one hearing, Mr. Chairman—on your actual legislative language before you require our committee to start writing it into law. To withhold your final language from the committee and the public until the moment on Monday or Tuesday when markup begins is simply an affront. It is an affront to our regular committee process and, more importantly, it is an affront to the American public, who deserves to be let in on the secret before it is a law.

Sincerely,



Joe Barton
Ranking Member



Fred Upton
Ranking Member
Subcommittee on Energy and the Environment